

Scott Peterson
Brian Miller
MORRISON, SHERWOOD, WILSON & DEOLA, PLLP
P.O. Box 557
Helena, MT 59624
(406) 442-3261 Phone
(406) 443-7294 Fax
speterson@mswdlaw.com
Attorney for Plaintiff

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SUSIE KRUEGER, CLERK

BY *Jamie Blaskevich*
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**MONTANA THIRD JUDICIAL DISTRICT COURT
DEER LODGE COUNTY**

TYLER GATES,
Plaintiff,
v.
FEDEX FREIGHT, INC.,
Defendant,

CAUSE NO. DV-15-84

DV-15-59-BU-BMM-JCL

COMPLAINT

COMES NOW Tyler Gates ("Plaintiff"), through counsel, and for his complaint against FedEx Freight, Inc., alleges as follows:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff Tyler Gates is a resident of Deer Lodge County, Montana.
2. Defendant FedEx Freight is an Arkansas corporation with a registered agent located in Missoula County, Montana.
3. Jurisdiction is proper in this Court.
4. Venue is also proper in Deer Lodge County.

BACKGROUND

5. Tyler Gates began working for FedEx Freight in November 2005.
6. Gates went through the FedEx driver training program, and became a driver in September 2011 for the company.
7. On or about September 2, 2014, Tyler was driving out of the Butte, Montana dock.
8. At that time, the FedEx yard had more equipment than usual because construction was occurring.
9. There were trailers also parked on the southwest part of the FedEx dock. Since April, Gates and other drivers had asked FedEx that the trailers not be parked there because it made it more difficult to pull out of the yard.
10. Because of the parked trailers and the construction, Gates had to make a sharp turn out of the FedEx facility.
11. While pulling out, Gates heard a noise.
12. Gates stopped his vehicle, and had it checked out before driving his route.
13. A review of the vehicle revealed that there was a plate break at the weld.
14. On information and belief, FedEx was having problems with these weld's breaking.
15. On information and belief, the weld was defective and/or not properly installed.
16. The kingpin on the truck was not bent.
17. The frame on the gear was not bent.

18. There were no marks on either the trailer or the cab after Gates heard the weld break.
19. On or about September 10, 2014, Gates refused to drive a truck because the axle was not all the way back.
20. Both Gates' supervisor, April, and the Manager, Greg, told Gates to pull the trailer anyway.
21. Despite these orders from his superiors, Gates again refused.
22. A safety inspector ultimately sided with Gates, stating that the axel needed to be pushed all the way back.
23. Two days later, on or about September 12, 2014, Gates received notice that he was suspended as a driver. He was provided no reason at that time why the suspension was occurring.
24. Gates never received any notice in writing as to why he was being suspended.
25. FedEx orally informed Gates he was suspended because he had jackknifed his truck on September 2, 2014.
26. But between September 2 and 10, no management had inquired with Gates about the September 2 incident, nor expressed any concerns about his driving.
27. Instead, management waited 10 days before it suspended Gates for the September 2 incident.
28. It also only suspended Gates after he refused to drive the truck on September 10, 2014.
29. Gates had also not jackknifed the truck on September 2, 2014.

30. Gates was ultimately discharged from his driver position.

31. Gates exhausted his internal remedies for this discharge.

COUNT I
WRONGFUL DISCHARGE

32. Gates re-alleges all the foregoing paragraphs, and incorporates them herein.

33. FedEx terminated Gates without good cause. While it claimed that it terminated Tyler because he jackknifed his truck, in reality, it terminated Gates because he refused to drive an unsafe trailer on September 10. Indeed, there was no evidence that Tyler had in fact jackknifed his truck, contrary to FedEx's claims.

34. As such, FedEx is liable for damages under Montana's Wrongful Discharge from Employment Act.

PRAYER FOR RELIEF

WHEREFORE, the plaintiffs pray as follows:

1. Lost wages; and
2. Any other relief the Court deems just and proper.

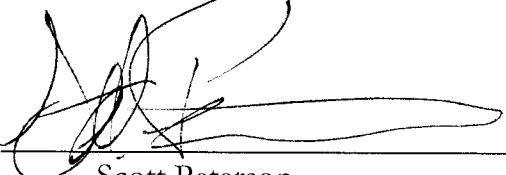
JURY DEMAND

Plaintiff requests a trial by jury.

DATED this 16 day of August 2015.

MORRISON, SHERWOOD, WILSON & DEOLA

By:



Scott Peterson
Attorney for Plaintiff